

FILED

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CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA

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6

7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF California

9 Michael Luckert, Plaintiff	Case No. 19-cv-08204-
10 .vs	PJH
11 San Francisco County	
12 Police: Police officer	Objections to a ruling
13 Gutierrez	OR ORDER
14 ; defendant's	F.R.C.P. Rule 46
15	

16 A Formal exception to a ruling or order is
17 unnecessary. When the ruling or order is
18 requested or made, a party need only state
19 the action it wants the courts to take OR
20 object to, along with the grounds for the
21 request or objection. Failing to object does
22 not prejudice a party who had no opportunity
23 to do so when the ruling or order was made.
24

25 (a). In General, Judges and attorneys in Federal
26 civil procedure cases should follow the Federal
27 Rules of Civil Procedure (FRCP) as they stand
28 in 2025, which includes amendments made
objections to a ruling or ORDER

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1 effective in 2019 and any subsequent
2 changes. Rather than relying solely on
3 the rules as they existed in 2019.

4 (b). Failure to Preserve Electronically
5 Stored Information that should have been
6 preserved in the anticipation or conduct
7 of litigation is lost because a party failed
8 to take reasonable steps to preserve it,
9 and it can not be restored or replaced through
10 additional discovery, the court:

11 (1) upon finding prejudice to another party
12 from loss of the information, may order
13 measures no greater than necessary to cure
14 the prejudice; or

15 (2) Only upon finding that the party acted
16 with the intent to deprive another party of
17 the information's use in the litigation may:

18 (A) presume that the lost information
19 was unfavorable to the party;

20 (B) instruct the jury that it may or must
21 presume the information was unfavorable to
22 the party; or

23 (C) dismiss the action or enter a default
24 judgment.

25
26 (c). OBJECTIONS

27
28 (1). I, Michael Luckert, have a Objection
objection to a Ruling of ORDER

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1 that are of a Federal Rule of Civil
2 Procedure. (Rule 37(e)). In which the defence and
3 Police officer: Gutierrez and the
4 San Francisco Police department Broke.
5 Because all of rule 37(e) applies when it
6 came to the Defendant Officer Gutierrez and
7 the San Francisco Police and Gutierrez Counsel.
8 Destroying/Erased Body Camera, and Video
9 Surveillance of this incident before a year was
10 up. Which that is the minimum standard that is
11 even State Law must abide by for preserving
12 Electronically Stored Information. Documents.

13
14 (d). The Federal Rules of Civil Procedure, Rule 37(e)
15 was made for a Purpose: So the preservation of
16 Electronically Stored Information can stand up against
17 the lies of old school law. Where it was the
18 Policeman's Word against the People of the
19 United States. I believe Transparency is
20 what this rule 37(e) has in mind.

21 (e). Under the Federal Rules of Civil
22 Procedure, a defendant's duty to preserve
23 electronically stored information (ESI) begins
24 when they reasonably anticipate litigation.
25 Even before a lawsuit is filed. Under Common
26 law and as expressly referenced in amended
27 Federal Rule of Civil Procedure (FRCP) 37(e).

28 19-cv-08204-PJH complaint is filed on: 12-17-2019.
objection to a ruling on order

1 (F). The defendant, his counsel and the
 2 San Francisco Police need to be held
 3 accountable for braking F.R.C.P. 37(e),
 4

5 (g). OBJECTION

6 On page 2 Lines 3-4 of (ORDER Denying
 7 Plaintiff's Motion For Summary Judgment and
 8 Granting Defendant's Motion For Summary
 9 Judgment) it says: "He", (as in Plaintiff), presented
 10 very few argument regarding the actions of the
 11 individual defendant.

12 (g.1). In Plaintiff's (Declaration of Michael Luckert
 13 for Opposition to Summary Judgment), page 2 lines 20-
 14 28 and Page 3 lines 1-28 the Plaintiff is stating
 15 that officer Gutierrez charged Plaintiff on
 16 February 26, 2019 with resisting arrest, obstructing/
 17 Delaying a peace officer, /EMT, Interfering with a
 18 Public agency, Disturbing the peace, Possession of a
 19 weapon at the Courthouse/public building.

20 (g.2). All charges got dropped "MEANING" I,
 21 Michael Luckert, did not (1). Resist /obstruct / delay
 22 Peace Officer / EMT. (2). Interfer with Public
 23 Agency. (3). Disturb the peace. (4). Possession
 24 of a Weapon at the Courthouse/public Building.

25 What the Plaintiff wants done is for the Judge
 26 to "STRIKE" any documents that talk about the
 27 above charges that got dropped. Another words
 28 if the defence and it's counsel use any of the
 objection to a ruling or order

1 ——— dropped charges to try and defend
 2 themselves. Or just trying to make me,
 3 Michael Luckert, Look bad with Case's —
 4 that are not even true And did not get
 5 convicted of. So how you going to make a case
 6 — built OFF OF things I never got
 7 convicted of.

8 (h). OBJECTION

9 on page 2 of Document 179, Lines 3-4 it
 10 says "He presented very few arguments regarding
 11 the actions of the individual defendant? Specifically
 12 about switching defendants when we were
 13 in the discovery Phase.

14 (h.1). The reason I switched Police
 15 officers in this law suit, (19-08240-PJH),
 16 was because my face was always in the
 17 ground and on pushed forward so I could not
 18 see what officer did what to me.

19 So when I got the police incident report
 20 I match it up with what police officer
 21 I felt did the excessive force. Because
 22 from the way the incident report went
 23 I could tell what officers was around me,
 24 Michael Luckert. ——— Plus

25 This one document called Amended Complaint,
 26 (Document 7, Filed 01-27-20, page 10, Lines
 27 2-8, it says: "At all times in the Amended
 28 Statement of claim Complaint any Deputy/

objection to a ruling OR ORDER

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1 Sheriff/ building grounds Patrol may take the
2 Place of any other Deputy/ Sheriff/ building grounds
3 Patrol in this amended statement of claim's (complaint),
4 OR names may be added. Do to camera/ video
5 surveillance, discovery and in the interest of Justice.
6 Now I hope the Judge and the defence see
7 how important it is to preserve Body Cameras,
8 Video Surveillance. Which the defendant,
9 Police officer Gutierrez and the San Francisco
10 Police department need to be brought to
11 Justice For destroying, writing over Body
12 Cameras,
13

14 OBJECTION

15
16 (11). document 179, Filed 03/03/25, Page 1,
17 Line 23-24 it says "but what is relevant for
18 the instant motion were the allegations that
19 defendant Gutierrez injured plaintiff's wrists
20 at the library." Plaintiff's left and right hand,
21 wrist, Finger's.

22 (1.2), Document 175, Filed 12/16/24 (Declaration
23 of Michael Luckert For OPPOSITION TO Summary
24 Judgment), pages 2 and 3, AS FAR as the
25 Court Clerk's stamp is on top. This
26 Declaration of Michael Luckert is all about
27 Defendant Gutierrez injuring plaintiff's
28 wrist at the library. Specially Page 2,
objection to a ruling or order
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1 Lines 26-28, AND page 3, Lines 1-10, were
2 it says "I was brought to the San Francisco
3 county main library Security Building
4 ground Patrol office. I did not know exactly
5 what officer at the building grounds
6 security office at the main library was
7 responsible for applying pressure to my
8 handcuffed hands until I read the Declaration
9 Declaration's of each officer at the scene
10 of this particular incident. Only (1) officer
11 in the building grounds security office
12 applied pressure to my handcuffed wrists.
13 And in (Officer Gutierrez Declaration) he is
14 admitting to applying pressure to my wrist
15 at the building grounds security office
16 at the main library in San Francisco."
17 Lines 20-21 "These officers that applied
18 pressure to my handcuffed wrists
19 injured me.

20 (1.b) These injuries were not de minimus.
21 The Police officer Gutierrez put too much pressure
22 on my right wrist. Pushing it passed what it
23 will bend. Injuring Plaintiff. And according to
24 the medical documents my right hand and left
25 wrists/fingers, hand were still injured and was not
26 de minimus. On 3/1/19 in Document 175-1, Filed
27 12/16/24, page 19 it states "Contusion of hand,
28 unspecified laterality.

objection to a ruling or order

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(I.C) Document 175-1, Filed 12-16-24, Page 37, EXHIBIT 1.I, Page 326 of the medical report says "soft tissue injury / sprain on bilateral hands. This was on 3-1-2019."

(1.D) 3-15-19 In Document 175-1, Filed 12-16-24, page 37 it also states "after 2 1/2 week that finally my right hand swelling went down" "No noted swelling on R hand" but I was still in pain. (This is a lot of pain and suffering) that went on

(I.E) Officer Gutierrez have caused me pain and suffering from the incident at the library injuring both right and left hand. Finger, wrist. Causing me pain and suffering for months, as the Exhibit -(I.J), Zuckerberg San Francisco General Hospital will show.

(I.F) in Document 179, Filed 03/03/25, Page 4, Lines 8 - 10 it states "Ochoa approached Plaintiff, who was visibly agitated and acting erratically and took up an aggressive stance."

I, Michael Luckert, did not take up a aggressive stance, which is irrelevant because Gutierrez is the defendant not Ochoa and Smith. And the time we are talking about is the time at the Main Library in the Building grounds Patrol Office that Officer Gutierrez injured me the objection to a ruling or order

1 First time.

2

3 (1.6). Document 179, Filed 03/03/25, page 5,
4 Line 1, it states "Gutierrez applied minimal
5 pressure and found a knife."

6 Gutierrez is lying. The officer's did not
7 find a knife on me until I, Michael Luckert,
8 was in the transportation van. The officer
9 asked me if I had anything else in my pockets
10 and I said "yes". And I reached in my pocket
11 and gave the legal knife to the officer.
12

13 (1.4). Document 179, Filed 03/03/25, page 6,
14 Line 5 and 6 it states "Gutierrez Decl. 119.

15 Before, being placed in the holding cell, Gutierrez
16 again searched plaintiff by applying a rear wrist
17 lock on plaintiff with minimal pressure."

18 This incident when Gutierrez again injures
19 Michael Luckert was in the safety cell with
20 Deputy Mendoza. This rear wrist lock was not
21 minimus. Gutierrez push my wrist past the
22 point that it moves injuring plaintiff.

23 Please refer to this Document, Objection
24 to a ruling or ORDER, page 7, Lines 20-28
25 and page 8, lines 1-17. With the sprained
26 wrist's, and swelling of both hands until
27 2 1/2 week later. Then for month I still

28 was in pain as the medical documents will
objection to a ruling or ORDER

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1 Explain.

2
3 (1.I), Document 179, Filed 03/03/25,
4 page 67, line 11, 12. It states "when asked if he was
5 injured or had any wounds, plaintiff answered
6 in the negative.

7 This is not how the question above was
8 asked. The question the Police asked me
9 was. Do I have any life threatening injuries?
10 Which I said "no". The questions are
11 not the same.

12
13 (1.J) Document 179, Filed 03/03/25,
14 page 8, Line 3-5 says "Plaintiff attempted to
15 alter his allegations regarding events at the
16 Jail. He argues that the initial search at
17 the holding cell of the Jail by defendant
18 actually occurred later during the incident in
19 the Safety Cell.

20 IF YOU READ MY DOCUMENTS FROM THE
21 BEGINNING AMENDED COMPLAINT TILL NOW THE
22 JUDGE AND DEFENDANT WILL SEE I HAVE
23 BEEN SAYING THIS WHOLE TIME THAT IT HAPPENED
24 IN THE SAFETY CELL. THESE INCIDENT LIKE
25 THIS IS WAY BODY CAMERA'S AND VIDEO SURVEILLANCE
26 ARE SO IMPORTANT. SO THAT WE CAN TELL A LIE
27 FROM THE TRUTH. LINES 15, 16 IT SAYS "UNDISPUTED
28 THAT DEFENDANT WAS NOT INVOLVED IN THE RELEVANT
objection to a ruling or order

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1 incident at the Jail.

2
3 (I.K). The burden is on Officer Gutierrez
4 to show that Gutierrez did not use
5 excessive force on Mr. Michael Luckert, by
6 presenting the body camera footage.

7 And the immunity thing is off the table
8 because Officer Gutierrez broke the law
9 and committed excessive force.

10 (I.K). I also object to BRIAN MENDOZA not committing
11 excessive force. So I can appeal

12 (1) The RELIEF should at least
13 get (1). The remaining Defendant Officer
14 Gutierrez should at least get a (default
15 judgment in my favor.

16 Date: 3-17-2025

17
18 Signature of Attorney in Pro-Se!

19 Michael Luckert
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE OF DOCUMENT OTHER THAN COMPLAINT

Unless all parties to the case, including you, are electronic filers, you must serve each document you file by sending or delivering it to the opposing side. Complete this form and include it with the document that you file and serve.

1. Case Name: Michael Luckert v. Gutierrez

2. Case Number: 19-cv-08204-PJH

3. What documents were served? Write the full name or title of the document(s)

(objection to a ruling or order.)

4. How was the document served? Check one:

☒ Placed in U.S. Mail

☐ Hand-delivered

☐ Sent for delivery (e.g., FedEx, UPS)

☐ Sent via email [if the other party has agreed to accept service by email]

5. Who did you send the document to? [Write the full name and contact information for each person you sent the document.]

<u>U.S. District Court,</u>	<u>County Attorney of San</u>
<u>Northern District of California</u>	<u>Francisco, John H. George</u>
<u>450 Golden Gate Ave</u>	<u>1390 Market St, Fox Plaza</u>
<u>San Francisco, CA 94102</u>	<u>7th Floor, San Francisco, CA 94102</u>

6. When were the documents sent? 03-17-2025

7. Who served the documents? [Whoever puts it into the mail, emails, delivers, or sends for delivery should sign, and print their name and address. You can do this yourself.]

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Signature: Michael Luckert

Name: Michael Luckert

Address: 371 ELLIS STREET, San Francisco, CA 94102

